



**BILLING CODE: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XE883**

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to  
Northeast Fisheries Science Center Fisheries Research**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of issuance of Letter of Authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the NMFS Northeast Fisheries Science Center (NEFSC) for the take of marine mammals incidental to fisheries research conducted in the Atlantic coast region.

**DATES:** Effective through September 9, 2021.

**ADDRESSES:** The LOA and supporting documentation is available online at:

[www.nmfs.noaa.gov/pr/permits/incidental/research.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm). In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Ben Laws, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers

of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

### **Summary of Request**

On December 17, 2014, we received an adequate and complete request from NEFSC for authorization to take marine mammals incidental to fisheries research activities. On July 9, 2015 (80 FR 39542), we published a notice of proposed rulemaking in the **Federal Register**, requesting comments and information related to the NEFSC request for thirty days. We

subsequently published corrections to the notice of proposed rulemaking in the **Federal Register** on August 6, 2015 (80 FR 46939), and August 17, 2015 (80 FR 49196), including an extension of the comment period. The final rule was published in the **Federal Register** on August 11, 2016 (81 FR 53061). For detailed information on this action, please refer to those documents. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during fisheries research activities in the specified geographic region.

NEFSC conducts fisheries research using pelagic trawl gear used at various levels in the water column, bottom-contact trawl gear, pelagic and demersal longlines with multiple hooks, gillnets, fyke nets, dredges, pots, traps, and other gear. If a marine mammal interacts with gear deployed by NEFSC, the outcome could potentially be Level A harassment, serious injury (i.e., any injury that will likely result in mortality), or mortality. We pooled the estimated number of incidents of take resulting from gear interactions and assessed the potential impacts accordingly. NEFSC also uses various active acoustic devices in the conduct of fisheries research, and use of these devices has the potential to result in Level B harassment of marine mammals. Level B harassment of pinnipeds hauled out on land may also occur as a result of visual disturbance from vessels conducting NEFSC research.

The NEFSC conducts fisheries research surveys in the Atlantic coast region which spans the United States-Canadian border to Florida. This specified geographic region includes the following subareas: the Gulf of Maine, Georges Bank, Southern New England waters, the Mid-Atlantic Bight, and the coastal waters of northeast Florida. The NEFSC is authorized to take individuals of 10 species by Level A harassment, serious injury, or mortality (hereafter referred to as M/SI + Level A) and of 19 species by Level B harassment.

## **Authorization**

We have issued an LOA to NEFSC authorizing the take of marine mammals incidental to fisheries research activities, as described above. Take of marine mammals will be minimized through implementation of the following mitigation measures: (1) Required monitoring of the sampling areas to detect the presence of marine mammals before deployment of pelagic trawl nets, bottom-contact trawl gear, pelagic or demersal longline gear, gillnets, fyke nets, pots, traps, and other gears; (2) Required implementation of standard tow durations of not more than 30 minutes to reduce the likelihood of incidental take of marine mammals; (3) Required implementation of the mitigation strategy known as the “move-on rule,” which incorporates best professional judgment, when necessary during trawl and longline operations; (4) Required compliance with applicable vessel speed restrictions; and (5) Required compliance with applicable and relevant take reduction plans for marine mammals. Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. The NEFSC will submit reports as required.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under these LOAs will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: September 13, 2016.

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Donna S. Wieting,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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